

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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KENNETH AND PAMELA PRICE JEAN

Plaintiffs

v.

CITY OF ASHBURNHAM POLICE

DEPARTMENT, CITY OF WINCHENDON

POLICE DEPARTMENT, ROB HARRINGTON,

in his capacity as CHIEF OF THE WINCHENDON

POLICE DEPARTMENT, JACK MURRAY, in his

capacity as CHIEF OF THE ASHBURNHAM

POLICE DEPARTMENT, TODD C. PARSONS

RAYMOND M. ANAIR, ROBERT BRENNON,

WILLIAM P. GEOFFROY, BRIAN HART,

KEVIN AHEARN, KEVIN E. WOLSKI

OFFICER JOHN DOE, OFFICER JOHN POE.

Defendants

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C.A. NO. 03-12306MLW

**PLAINTIFFS' SUBSTITUTE MOTION FOR RECONSIDERATION**

Plaintiffs Pamela Jean and Kenneth Jean move for reconsideration of the Order of the Court of June 16, 2006. In support they say the following:

1. It appears that the Court based its decision upon review of the Third Amended Complaint rather than the Substitute Third Amended Complaint, which the Court apparently was unable to review, believing erroneously that it had not been filed. In fact, the Substitute Third Amended Complaint was filed [see Docket # 65] by the plaintiffs with their Motion to Allow Filing of Substitute Third Amended Complaint.
2. It appears that the Substitute Third Amended Complaint was deleted from the ECF system, apparently because it was filed with the Motion to allow its filing and before the

motion was granted.

3. This was pointed out to plaintiffs' counsel by the Courtroom Clerk, upon whose advice the plaintiffs have withdrawn their motion for reconsideration and substituted it with this one, which has the Substitute Third Amended Complaint attached as an exhibit, so that it can be filed electronically and available to the Court.
4. The Substitute Third Amended Complaint was prepared and filed by Plaintiffs to accommodate multiple criticisms from the Defendants and, in fact, addressed the points the Court said the Plaintiffs had failed to address, including, among others, Plaintiffs' naming Officer Gushlaw as a Defendant.<sup>1</sup>
5. The Court also admonishes the Plaintiffs for failing to name Officer Baranowski after being allowed by Order of the Court to add him as a Defendant. The Plaintiffs' omission in this regard resulted from a misunderstanding. Plaintiffs' Counsel was, in the absence of the Court's having issued any written order or made any docket notation to this effect, uncertain as to what ruling the Court had made, after conferring on this matter, as they were directed to do, with defense counsel. After conferring with one of the Defense Counsel, Plaintiffs mistakenly believed the Court had denied them leave to amend the Complaint to add Officer Baranowski.
6. The inclusion of the names of defendants Geoffrey and Wolski in Count XII, alleging

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Officer Gushlaw's name is dropped from the Substitute Third Amended Complaint. Indeed, this was one reason for substituting a corrected complaint, as noted at the top of page 3 of the Motion to Allow filing of Substitute Third Amended Complaint.

defamation for identifying Ms. Jean's occupation as "prostitute" in the booking sheet for her arrest, was not done to circumvent any order of the Court, but was intended to satisfy repeated requests of the Defendants that the Plaintiffs accurately identify which Defendants were the subject of Count XII.<sup>2</sup>

For the above reasons, Plaintiffs respectfully ask the Court to review the Substitute Third Amended Complaint, Docket # 65, apparently overlooked by the Court, and based upon such review, reconsider its Memorandum and Order, and allow plaintiffs' Substitute Third Amended Complaint.

Date: June 30, 2006

Respectfully submitted,  
Pamela Price Jean,  
by her counsel,

\_\_\_\_\_/s/Mark Stern\_\_\_\_\_  
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Respectfully submitted,  
Kenneth Jean,  
by his counsel,

\_\_\_\_\_/s/Andrew M. Fischer\_\_\_\_\_  
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BBO # 167040  
Jason and Fischer  
47 Winter Street

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<sup>2</sup> The substitution of defendants Geoffrey and Wolski for Defendant Brennan is also reflected in the Substitute Third Amended Complaint.

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